

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**TENTATIVE**

**ORDER NO. R9-2003-0302**

**ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY  
AGAINST  
ASHBY USA, LLC.  
NONCOMPLIANCE WITH  
STATE WATER RESOURCES CONTROL BOARD  
ORDER NO. 99-08-DWQ**

The San Diego Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), having held a public hearing on September 10, 2003, to hear evidence and comments on the allegations contained in Complaint No. R9-2003-0227 dated May 30, 2003, and on the recommendation for administrative assessment of Civil Liability pursuant to Water Code section 13385 in the amount of \$51,000 finds as follows:

1. Ashby USA, LLC, operates an active construction site known as Roripaugh Ranch on 804 acres of land located near Murrietta Hot Springs Road and Butterfield Stage Road in Temecula, Riverside County.
2. Ashby USA, LLC began construction activity at the Roripaugh Ranch construction site on March 10, 2003.
3. The State Water Resources Control Board (hereinafter State Board) adopted *Order No. 92-08-DWQ, NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity* on August 20, 1992 to address storm water discharges from construction activity resulting in the soil disturbance of five acres or more. On August 19, 1999, the State Board updated Order No. 92-08-DWQ with *Order No. 99-08-DWQ, NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity* (Construction Storm Water Permit).
4. Ashby USA, LLC discharged sediment to a Municipal Separate Storm Sewer System and waters of the United States in violation of State Board Order No. 99-08-DWQ section A.2. Sediment was discharged from the Roripaugh Ranch site to Santa Gertrudis Creek on at least two days: March 16, 2003 and April 14, 2003.
5. Ashby USA, LLC failed to implement its Storm Water Pollution Prevention Plan (SWPPP) by failing to implement and or maintain Best Management Practices

- (BMPs) in violation of State Board Order No. 99-08-DWQ section C.2 on at least 43 days: March 10, 2003 through April 22, 2003.
6. Consideration of the factors prescribed in California Water Code section 13385(e) based upon information available to the Regional Board prior to the hearing and described in greater detail in *California Regional Water Quality Control Board, San Diego Region, Technical Analysis, Proposed Administrative Civil Liability Contained in Complaint No. R9-2003-0227, Ashby USA, LLC, May 30, 2003* supports assessment of civil liability in the amount of \$84,500 as follows:
    - a. \$10,000 per day for discharging sediment to waters of the United States for two days for a total of \$20,000;
    - b. \$1,500 per day for failing to implement an adequate Storm Water Pollution Prevention Plan (SWPPP) for 43 days for a total of \$64,500;
  7. Liability will be reduced to \$5,000 for the sediment discharge that occurred on April 14, 2003 and the number of days of violation for failing to implement an adequate SWPPP will be reduced to 24 days. Therefore civil liability pursuant to Water Code section 13385 in the amount of \$51,000 shall be assessed as follows:
    - a. \$10,000 for the discharge of sediment to waters of the United States that occurred on March 16, 2003;
    - b. \$5,000 for the discharge of sediment to waters of the United States that occurred on April 14, 2003;
    - c. \$1,500 per day for failing to implement an adequate Storm Water Pollution Prevention Plan (SWPPP) for 24 days (March 10, 2003 through April 2, 2003) for a total of \$36,000.
  8. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with section 15321, Chapter 3, Title 14, California Code of Regulations.
  9. Ashby USA, LLC has committed to comply with State Board Order No. 99-08-DWQ at the Roripaugh Ranch site as well as all existing and future sites within the San Diego Region.

**IT IS HEREBY ORDERED** that civil liability is imposed on Ashby USA, LLC in the amount of fifty-one thousand dollars (\$51,000) and that the rationale for the assessment contained in *California Regional Water Quality Control Board, San Diego Region, technical Analysis, Proposed Administrative Civil Liability Contained in Complaint No. R9-2003-0227, Ashby USA, LLC, May 30, 2003* is hereby incorporated into this order.

Administrative Civil Liability  
Tentative Order No. R9-2003-0302  
Ashby USA, LLC  
Roripaugh Ranch

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September 10, 2003

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on September 10, 2003.

**TENTATIVE**

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JOHN H. ROBERTUS  
Executive Officer